

**Ann Diers**

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**From:** Ann Diers [adiers@dnr.ne.gov]  
**Sent:** Wednesday, July 05, 2006 2:33 PM  
**To:** Pam Andersen (pandersen@dnr.state.ne.us); Susan France (sfrance@dnr.state.ne.us)  
**Cc:** Pam Bonebright (pbonebright@dnr.state.ne.us)  
**Subject:** Letter to NARD/NRD Managers re 46-602

Pam and Susan:

Pam Bonebright emailed me late last week with her concern that some NRDs may have rules that, because they repeated the pre-July 14th statutory definition of a replacement well, may need to be revised to be compliant with the requirements in 46-602.01 going forward. I spoke with Ann Bleed about this, and she thought that we should probably send a communication with the forms that Pam B. indicated that she would be forwarding to the NRDs.

I learned today that the memo/forms went out on Friday. I reviewed the memo that went out, and it does not mention the issue that the NRDs should probably be considering.

I went ahead and prepared a draft letter that could be used as further correspondence on this issue, if Ann Bleed still wants a letter to be sent. Would you mind looking at the draft, and giving me any comments by Thursday noon? I will then let Ann know that the planned communication has already been sent, and see if she wants to go ahead with a separate letter.

Thanks.  
Ann

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July 6, 2006

Dean Edson, Executive Director  
Nebraska Association of Resources Districts  
601 South 12<sup>th</sup> St., Ste 201  
Lincoln, NE 68508

RE: Changes to Section 46-602 Effective July 14th

Dear Mr. Edson:

As you are aware, LB 508 and LB 1226 made several changes to statutes relating to ground water wells. The Department previously has sent an explanatory memorandum, along with forms, to the natural resources districts, to assist them in implementing the changes that will be effective on July 14<sup>th</sup>.

The Department also would like to call your attention to another change effected by LB 508, which may dictate the need for some NRDs to revise their rules (if their rules currently contain definitions of a replacement water well that either (1) are based entirely on the wording of the pre-July 14<sup>th</sup> version of the statute, or (2) contain provisions that are inconsistent with the post-July 14<sup>th</sup> version of the statute). Section 3 of LB 508 added the following new language to that section:

The permit issued by the natural resources district as required by the act may (1) further define a replacement water well in accordance with the act **so long as any further definition is not inconsistent with section 46-602**, (2) impose restrictions on consumptive use, or (3) impose additional restrictions based on historic consumptive use.

(Emphasis supplied).

The Department is calling this to your attention, and will forward copies of this letter to the natural resources districts, as well. As indicated above, the changes may require that the NRDs review the wording of their existing rules to ensure that the rules are in compliance with the requirements of the statute. NRDs may wish to consult with their legal counsel on this matter.

If you, or the NRD managers, have any questions concerning this letter, please let me know.

Sincerely,

c: NRD Managers